

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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Federal Communications Commission  
Office of the Secretary

In the Matter of

Advanced Television Systems  
and Their Impact on the  
Existing Broadcasting Service

MM Docket No. 87-268

**REPLY COMMENTS OF THE CORPORATION FOR PUBLIC BROADCASTING  
AND THE NATIONAL ASSOCIATION OF PUBLIC TELEVISION STATIONS**

**I. Introduction**

The Corporation for Public Broadcasting ("CPB") and the National Association of Public Television Stations ("NAPTS") filed joint comments on November 30, 1988, in response to the Tentative Decision and Further Notice of Inquiry ("Notice") in the above-captioned proceeding.

In reviewing the comments of other parties, CPB and NAPTS are compelled to reply to those that could be viewed as supporting adoption by the Commission of ATV spectrum allocation and assignment policies and procedures that would not allow for the future growth and development of public television services.

**II. Discussion**

The Commission's Notice at paras. 136-138, sets out the Commission's initial view that rapid development of ATV broadcasting

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can be realized best by assigning suitable additional spectrum, if necessary, to existing television broadcast licensees and applicants. The Commission particularly requested comment on its legal authority to limit eligibility to existing broadcasters, if the Commission should decide to make 6MHz supplemental allotments that could be used for an incompatible ATV transmission service. In so doing, the Commission noted that legal and policy reasons might exist to accept applications from other parties proposing to provide their own television service and that legal precedents exist in other contexts for the Commission to decline to entertain competing applications when the Commission has found that it would promote the public interest to do so. (Notice at para. 138).

Not surprisingly, the commercial television industry has enthusiastically embraced and supported the Commission's initial view to restrict supplemental ATV allotments to existing licensees, since this would ensure that current television broadcast licensees and applicants would have exclusive access to any supplementary spectrum that may become available for ATV terrestrial broadcasting. (See, for example, "Joint Comments of the Association of Maximum Service Telecasters, the National Association of Broadcasters, the Association of Independent Television Stations, and Seventy Other Broadcast Organizations and Companies" at pages 5-10) (hereafter "Commercial TV Joint Comments").

The public television industry, on the other hand, has urged the Commission to ensure that spectrum allotment and post-allotment policies and procedures reflect the long-standing policy originating with the Sixth Report and Order on Television Assignments, 41 F.C.C. 148 (1952) that affords public television services separate and distinctive treatment in spectrum allotment and assignment matters. This will continue to be necessary to enable future growth of public television program services. Specifically, public television emphasizes that the Commission should remain mindful that it has consistently reiterated and supported the principle of preferential spectrum allocations as a means of effecting its "policy of providing all possible encouragement and assistance for the development of educational television." Channel Assignment in Medford, Oregon, 7 R.R. 2d 1656 (1966). Public television maintains that the advent of ATV service does not justify departure from this long-standing and Congressionally-endorsed Commission policy. Rather, extension of this policy to the forthcoming ATV service is not only appropriate and logically consistent, but moreover, is essential to the continued viability of public television services. (See generally, Joint Comments of CPB and NAPTS at pp. 6-14 and Joint Comments of the Public Broadcasting Service and NAPTS at pp. 10-20)

CPB and NAPTS are concerned that the enthusiastic support that the commercial television industry has given to the Commission's initial view on allotments of additional spectrum for ATV may encourage the

Commission to proceed with ATV spectrum allotment and assignment without continuance of Commission policies that will facilitate future development of public television services. In this respect, CPB and NAPTS note that the Commercial TV Joint Comments did not specifically address the Commission's spectrum allotment policies favoring public television services.

In addition the Commission should note that, in urging the Commission to restrict the availability of supplemental ATV spectrum to existing licensees, the Commercial TV Joint Comments cite as support instances of the Commission's preferential policies, specifically for public television services. (See Commercial TV Joint Comments at pp. 7-8). Accordingly, as even the commercial television broadcasters have recognized in their Comments, the Commission can and does restrict new spectrum in preference to specific types of entities, particularly public television. The Commercial TV Joint Comments' reliance on this fact underscores the position of CPB, NAPTS and PBS to the effect that the Commission has a strong policy and legal basis to afford preferential treatment to public television services in allotting and assigning any additional spectrum that may be made available for ATV purposes.

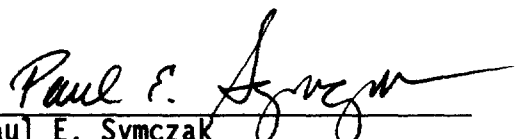
Lastly, the Commercial TV Joint Comments state at page 6 that: "Under the augmentation approach, the additional channel is useless for its intended purpose to anyone who has no basic NTSC channel to augment. Therefore, assignment of augmentation channels would necessarily be limited to existing licensees."


CPB and NAPTS point out that this is not necessarily the case. If, for example, the current reservations of channel assignments for public television are considered by the Commission when making allotment decisions, as CPB and NAPTS have urged, then augmentation channels would be relevant to and available for a class of potential users outside of the existing licensees.

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